

FCC 302-FM

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FOR
FCC
USE
ONLY

APPLICATION FOR FM

BROADCAST STATION LICENSE

(Please read instructions before completing this form)

FOR MASS MEDIA BUREAU USE ONLY

FILE NO. BLH-941031KD

Section 1 - GENERAL INFORMATION

1. APPLICANT NAME

Monticello Mountaintop Broadcasting, Inc.

MAILING ADDRESS (Line 1) (Maximum 35 characters)

c/o Wesley R. Weis

MAILING ADDRESS (Line 2) (if required) (Maximum 35 characters)

11 Old Tappan Road

CITY Old Tappan	STATE OR COUNTRY (if foreign address) New Jersey	ZIP CODE 07675
TELEPHONE NUMBER (include area code) (201)-387-7700	CALL LETTERS WXTM (FM)	OTHER FCC IDENTIFIER (IF APPLICABLE)

FOR MAILING THIS APPLICATION, SEE INSTRUCTIONS FOR SECTION 1

2. A. Is a fee submitted with this application?

☒ Yes ☐ No

B. If No, select the appropriate box to indicate reason for fee exemption (see 47 C.F.R. Section 1.1112) or reason a fee is not applicable and go to Question 3.

☐ Governmental Entity ☐ Noncommercial educational licensee ☐ Other (Please explain):

C. If item 2.A. is Yes, provide the following information:

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).

(A)	(B)	(C)	FOR FCC USE ONLY									
FEE TYPE CODE	FEE MULTIPLE (If required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)										
(1) <table border="1"><tr><td>M</td><td>H</td><td>R</td></tr></table>	M	H	R	<table border="1"><tr><td>0</td><td>0</td><td>0</td><td>1</td></tr></table>	0	0	0	1	<table border="1"><tr><td>\$ 135.00</td></tr></table>	\$ 135.00	<table border="1"><tr><td></td></tr></table>	
M	H	R										
0	0	0	1									
\$ 135.00												

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)	(B)	(C)	FOR FCC USE ONLY									
(2) <table border="1"><tr><td></td><td></td><td></td></tr></table>				<table border="1"><tr><td>0</td><td>0</td><td>0</td><td>1</td></tr></table>	0	0	0	1	<table border="1"><tr><td>\$</td></tr></table>	\$	<table border="1"><tr><td></td></tr></table>	
0	0	0	1									
\$												

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED SUBMITTANCE.

TOTAL AMOUNT REMITTED WITH THIS APPLICATION
\$135.00

FOR FCC USE ONLY

000284

Section 1 - GENERAL INFORMATION (Page 2)

3. (a) Has an adverse finding been made or an adverse final action taken by any court or administrative body with respect to the applicant or parties to the application in a civil or criminal proceeding, brought under the provisions of any law related to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination?

☐ Yes ☒ No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in (a) above?

☐ Yes ☒ No

If the answer to (a) and/or (b) above is Yes, attach as an Exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), a statement of the facts upon which the proceeding is or was based or the nature of the offense alleged or committed, and a description of the current status or disposition of the matter.

Exhibit No.

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4. For permittees of commercial FM stations only:

Has permittee filed its Ownership Report (FCC Form 323) or ownership certification in accordance with 47 C.F.R. Section 73.3615(b)? See Instructions.

☒ Yes ☐ No
☐ Does Not Apply

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against a regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See 47 U.S.C. Section 304)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATIONS

5. By checking Yes, the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits that includes FCC benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

☒ Yes ☐ No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant Monticello Mountaintop Broadcasting, Inc.	Signature <i>Wesley A. King</i>
Title President	Date 10/28/94

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of this application is in the public interest. In reaching that determination, or for law enforcement purposes, it may be necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission's rules. Your response is required to obtain the requested authority.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552(a)(3).

000285

SECTION II - TECHNICAL DATA

1. Select one for each item. This application is for 3:

(a) ☐ Request for program test authority

☒ Station on automatic program test authority

(b) ☒ Commercial station

☐ Noncommercial station

(c) ☐ Directional antenna

☒ Non-directional antenna

SPECIAL OPERATING CONDITIONS MAY PROHIBIT AUTOMATIC PROGRAM TEST AUTHORITY

2. Call Sign: WXTM

3. Frequency or channel: 259 (99.7 MHz)

Class: A

4. Community of License:

City Monticello	State NY
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5. Select one that applies and enter the file number(s) on the appropriate line(s). This application:

(a) ☒ covers a construction permit. Original file number: BPH-910214MD

as modified by: BMPH-920214IC

as extended by: BMPH-931206JD & BMPH-940818JA

as replaced by: _____

(b) ☐ modifies a license, file number: _____

6. Is this application being filed pursuant to MM Docket No. 88-375 (Class A Upgrade)? See instructions.

☐ Yes ☒ No

If YES, attach the supplemental Exhibit to this application.

Exhibit No.
N/A

IF YOU SELECTED 5(b), "MODIFIES A LICENSE," PROCEED TO ITEM 8.

7. Expiration date of construction permit:

Month 4	Day 14	Year 95
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THIS APPLICATION MUST BE ON FILE WITH THE COMMISSION BEFORE THE EXPIRATION DATE OF YOUR CONSTRUCTION PERMIT. SEE INSTRUCTIONS.

000286

SECTION II - TECHNICAL DATA (Page 2)

8. Description of facilities authorized by the construction permit or license noted in Item 5(a) or 5(b).

(a) Antenna coordinates:	<u>41</u> ° <u>45</u> ' <u>9</u> " N. Lat.	<u>74</u> ° <u>43</u> ' <u>1</u> " W. Lon.
	Horizontal	Vertical
(b) Effective radiated power:	<u>6.0</u> kW	<u>6.0</u> kW
(c) Beam tilt effective radiated power (if applicable):	<u>N/A</u> kW	<u>N/A</u> kW
(d) Radiation center above ground:	<u>72</u> meters	<u>72</u> meters
(e) Radiation center above mean sea level:	<u>544</u> meters	<u>544</u> meters
(f) Antenna height above average terrain:	<u>91</u> meters	<u>91</u> meters
(g) Overall tower height above ground (including antenna, all other appurtenances, and lighting, if any):	<u>86</u> meters	

9. Description of facilities as constructed:

(a) Antenna coordinates:	<u>41</u> ° <u>45</u> ' <u>9</u> " N. Lat.	<u>74</u> ° <u>43</u> ' <u>1</u> " W. Lon.
	Horizontal	Vertical
(b) Effective radiated power:	<u>6.0</u> kW	<u>6.0</u> kW
(c) Beam tilt effective radiated power (if applicable):	<u>N/A</u> kW	<u>N/A</u> kW
(d) Radiation center above ground:	<u>72</u> meters	<u>72</u> meters
(e) Radiation center above mean sea level:	<u>544</u> meters	<u>544</u> meters
(f) Antenna height above average terrain:	<u>91</u> meters	<u>91</u> meters
(g) Overall tower height above ground (including antenna, all other appurtenances, and lighting, if any):	<u>86</u> meters	

10. Are there any differences between the facilities described in Item 8 and those in Item 9?

☐ Yes ☒ No

IF YES, YOU MAY NOT BE ABLE TO USE THIS FORM. SEE INSTRUCTIONS.

Attach an Exhibit explaining in detail how these differences occurred.

Exhibit No.
N/A

11. Attach an Exhibit that demonstrates compliance with the special operating conditions, terms, and obligations described in the construction permit.

Exhibit No.
*

☐ Does Not Apply

*See Engineering Statement.

CONVERSION TO AND FROM METRIC:

METERS = 0.3048 X FEET

FEET = 3.281 X METERS

000287

12. Antenna description:

Make	Model Number	Number of Sections	Power Gain
Cablewave	CFMLP-3	3	1.50

If the antenna utilizes beam tilt, null fill, reduced spacing (less than one wavelength) between bays or the antenna is directional or specialized, an Exhibit must be attached. SEE INSTRUCTIONS.

Exhibit No.
N/A

13. Transmission line system description:

(a) Transmission line:

Make	Model Number	Length in Meters
Cablewave	HCC158-50	79.25 meters

(b) Percent efficiency of entire transmission line system: 89.5 %

If any losses are included in 13(b) other than the loss of the transmission line listed in 13(a), attach an Exhibit detailing these additional losses. See instructions.

Exhibit No.
N/A

14. Transmitter power output (in kilowatts): 4.47 kW

SEE INSTRUCTIONS TO CALCULATE TPO.

15. Operating constants:

(a) D.C. plate current in last radio stage (amperes): 1.165 A

(b) Applied D.C. voltage in last radio stage (volts): 5,400 V

(c) Efficiency of transmitter at operating power (percent): 71 %

(d) RF transmission line meter reading (percent): 100 %

SEE INSTRUCTIONS TO CHECK OPERATING CONSTANTS.

16. Is the main studio within the 3.16 mV/m (70 dBu) field strength contour of the main facility?

☒ Yes ☐ No

If NO, attach an Exhibit pursuant to the instructions.

Exhibit No.
N/A

17. Location of Main Studio: (P.O. BOXES ARE UNACCEPTABLE)

Street Address or Location Description		
Old Route 17		
City	County	State
Ferndale	Sullivan	NY

CONVERSION TO AND FROM METRIC:

METERS = 0.3048 X FEET

FEET = 3.281 X METERS

000288

18. Location(s) of Remote Control Point(s):

(a) Street Address or Location Description Old Route 17		
City Ferndale	County Sullivan	State NY

(b) Street Address or Location Description 75 Second Street		
City Dumont	County Bergen	State NJ

If there are additional remote control points, attach an Exhibit which describes their locations.


Exhibit No.

19. Location of Antenna Site:

Street Address or Location Description East Mongaup Road		
City 5.6 km south-southeast of Liberty	County Sullivan	State NY

20. CERTIFICATION OF PREPARER

I certify that I represent the applicant in the capacity indicated below and that I have examined the foregoing statement of technical information and that it is true to the best of my knowledge and belief.

Name (please print or type) William J. Getz	Signature (check appropriate box below) 
Address (include ZIP Code) Carl T. Jones Corporation 7901 Yarnwood Court Springfield, VA 22153	Date October 28, 1994
	Telephone No. (include Area Code) (703) 569-7704

☐ Technical Director☐ Registered Professional Engineer☐ Chief Operator☒ Technical Consultant☐ Other (specify)

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PAPERWORK REDUCTION ACT

Public reporting burden for this collection of information is estimated to average 4 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, can be sent to the Federal Communications Commission, Information Resources Branch, Room 418, Paperwork Reduction Project, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0506), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

000289

CARL T. JONES
CORPORATION

STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF AN
APPLICATION FOR LICENSE
WXTM(FM) - MONTICELLO, NEW YORK
CHANNEL 259A - 6.0 kW - 91 m HAAT

Prepared For: Monticello Mountaintop Broadcasting, Inc.

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Monticello Mountaintop Broadcasting, Inc., to prepare this statement and Section II of FCC Form 302-FM in support of an Application for License to cover the WXTM(FM), Monticello, New York, outstanding Construction Permit (File No. BPH-910214MD, as modified by BMPH-920214IC and extended).

The WXTM(FM) facility has been constructed in accordance with the terms and conditions of the outstanding Construction Permit. The technical parameters of the WXTM(FM) transmission system are provided in Section II of the attached FCC Form 302-FM.

It is submitted that the WXTM(FM) main facility is in compliance with FCC technical standards and is operating in accordance with the terms and conditions as set forth in the outstanding Construction Permit.

DATED: October 28, 1994

000290


William J. Getz

ATTACHMENT 2

000291

CARL T. JONES
CORPORATION

Dec 5 2 03 PM '94

AUXILIARY SERVICES
BRANCH

November 30, 1994

Mr. Alan J. Schneider, Chief
Auxiliary Services Branch
Federal Communications Commission
1919 M Street, N.W.
Room 408
Washington, DC 20554

Dear Mr. Schneider:

This letter is prepared on behalf of Gerard A. Turro, licensee of W276AQ, Fort Lee, New Jersey. The purpose of this letter is to formally inform the Auxiliary Services Branch that W276AQ now rebroadcasts primary station WXTM(FM), Monticello, New York.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Sincerely,


William J. Getz

WJG/law

cc: Gerard Turro
Art Goodkind, Esq.

000292

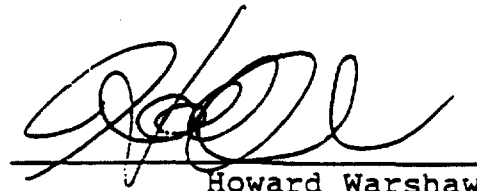
ATTACHMENT 3

0002S3

February 7, 1995

I, Howard Warshaw, make the following declaration under penalty of perjury:

On January 30, 1995, I called 914 information and asked for the telephone number of radio station WXTM of Monticello. Information gave me (914) 292-0751. I had been told that dialing this number will get me to the Dumont, New Jersey studio of WJUX. A woman answered the phone, "WJUX, this is Karen". I said that I have been instructed to ask the location of the WXTM's public file. She said just a moment and put me on hold for about 60 seconds. A male voice came on and said this is Gerry Turro, who is this? I replied "Mr. Jones". Mr. Turro asked what service he could be and I said that I would like to know the location of WXTM's public file. The gentlemen identifying himself as Mr. Turro said the public file was in several places, where was I? I replied that I was in Monticello. Mr. Turro said that the public file was kept in the Monticello Public Library. I thanked him and hung up.



Howard Warshaw

ENGINEERING REPORT ON BEHALF OF
UNIVERSAL BROADCASTING OF NEW YORK, INC.
WVNJ(AM), 1160 KHZ, OAKLAND, NEW JERSEY

FEBRUARY 1995

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

000255

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

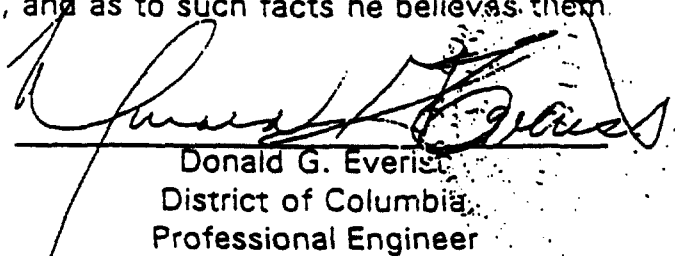
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

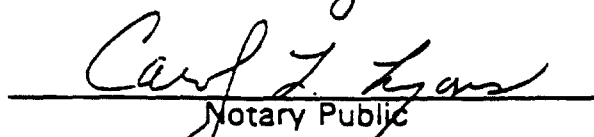
That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.


Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 10th day of February, 1995.


Notary Public

My Commission Expires: 2/28/98

000256

COHEN, DIPPELL AND EVERIST, P. C.

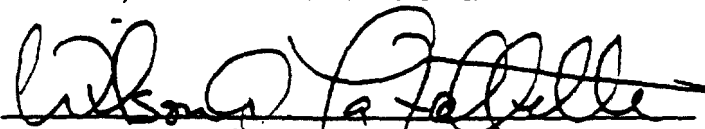
City of Washington)
) ss
District of Columbia)

Wilson A. La Follette being duly sworn upon his oath, deposes and states:

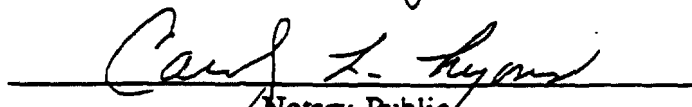
He is a graduate electrical engineer of the University of Arkansas, an engineer with the firm of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; and previously employed for nearly 29 years with the Federal Communications Commission.

That his qualifications are a matter of record in the Federal Communications Commission;

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts, he believes them to be true.


Wilson A. La Follette

Subscribed and sworn to before me this 10th day of February, 1995.


Notary Public

My Commission Expires: 2/28/98

000297

channel 259A, Monticello, Sullivan County, New York.^{4/} W276AQ is well outside of the predicted 1 mV/m contour of WXTM(FM).

SUMMARY OF OBSERVATIONS

Monitoring and measurements by the investigators show that the licensee of W276AQ is relaying aural programming material identified as "Juke Box Radio" from a studio located at 75 Second Street, Dumont, New Jersey, directly to FM translator station W276AQ(FM) and aired. This full-time local origination is being accomplished by use of a studio-to-transmitter-link (STL) operating on 95.1 MHz in violation of § 74.531 of the Commission's rules. W276AQ is also in violation of § 74.1231(b) of the rules because it is employing a direct program feed rather than direct reception of its primary station, WXTM(FM). Simultaneously, the identical aural programming material is aired by WXTM(FM).^{5/} W276AQ and the Dumont studio are each located far outside of the WXTM(FM) 1.0 mV/m 60 dBu contour.^{6/}

The investigators monitored the transmissions from W276AQ and it was observed that the programming for Juke Box Radio is fully oriented to the Bergen County and the proximate area of New Jersey with significant commercial spots sold to merchants in this area. Promotional announcements, commercials, news broadcasts, etc., aired by W276AQ give the appearance that the translator is a full-service FM station serving Bergen County. Such broadcasting practices and full time local origination clearly fall within the prohibited practices recited in the Report

^{4/}It appears that initially the primary station was WBAB-FM, Channel 272, Babylon, New York. It was subsequently changed to WJUX(FM). More recently it was changed to WXTM(FM).

^{5/}It is assumed that the programming is sent to WXTM(FM) via telephone lines.

^{6/}In its FCC 302-FM (File No. BLH-941031KD), WXTM(FM) listed the Dumont address as an alternate remote control point.

and Order in MM Docket No. 88-140, FCC 90-375 regarding the KBUR-AM/KGRS-FM case (see, paragraphs 36-41).

The investigators also observed through monitoring that FM translator station W232AL, Channel 232, Pomona, New Jersey, also licensed to Gerard Turro, was simultaneously carrying the programming for Juke Box Radio identical to that rendered on W276AQ.²¹ Consequently, the programming practices of W232AL are also in violation of some of these same FCC rules and policies.

It does not appear that the required formal applications using FCC Form 349 have been filed to change the input channels of W276AQ and W232AL in accordance with § 74.1251(b)(6) of the rules.

In conclusion the operation and broadcasting practices of W276AQ and W232AL were observed by the investigators to be in flagrant violation of the FCC rules and policies and immediate action by the Commission is requested. We wish to note that W276AQ's operation has already attracted attention and if the FCC condones this operation it should be prepared for similar operations to "spring up like mushrooms" elsewhere.

DISCUSSION

Use of Studio-Transmitter-Link. Gerard A. Turro is authorized aural intercity relay station, WMG-499, 951 MHz, associated with W276AQ. The licensed transmitter location is 75 Second St, Dumont, New Jersey. The investigators observed a 951 MHz vertically polarized antenna installed at the Dumont address

²¹The transmissions of W276AV were not monitored.

which is oriented in the direction of W276AQ.^{2/} Moreover, over-the-air monitoring using a hand-held scanner revealed emissions on 95.1 MHz from the studio location which were identical to those being broadcast by W276AQ.^{2/}

This clearly indicates that WMG-499 is being used as an STL to relay locally originated programming to W276AQ in violation of § 74.531 of the FCC rules. Moreover, broadcasting such program material by W276AQ is in violation of § 74.1231(b) of the FCC rules. This rule states:

"An FM translator may be used for the purpose of retransmitting the signals of a primary FM radio broadcast station or another translator station which have been received directly through space ..." (Emphasis added.)

An exception to this prescription in the rules pertains to non-commercial FM translators on reserved channels. A review of the engineering statement appended to Gerard Turro's application for WMG-499 indicates that W276AQ's primary station at the time of filing was non-commercial station WJUX(FM), Channel 204D, Franklin Lakes, New Jersey. It stated "the ICR will be used to feed 30-second spot announcement originations concerning financial support and operational communications from the WJUX(FM) studio to the W276AQ transmitter".

^{2/}The antenna appeared to be a Scala type MF960 or equivalent. Recent photographs taken by Mr. Dalton prior to February 2, 1995, which were provided to CDE show that a similar antenna oriented toward the Dumont studio is installed at the W276AQ transmitter site.

^{2/}Other communications antennas were also noted on the roof of the Dumont studio, but their purpose or use was not determined.

Since then our research of FCC records indicates that the primary station for W276AQ was changed to commercial station WXTM(FM).^{10/} In spite of the change of the primary station, the monitoring observations show that the STL is still being employed for full time local program origination.

Local Origination of Programming on W276AQ. As noted above, full-time local program origination by W276AQ through use of the STL, WMG-499, was observed by the investigators. The transmissions of W276AQ were observed to significantly exceed the limits and proscriptions contained in Section 74.1231(f) and (g) of the FCC rules in regard to local origination of aural material.

It was observed that the full-time locally originated programming for W276AQ is entirely oriented to Bergen County, New Jersey, and the surrounding area. Commercials, announcements, and other non-entertainment aural material broadcast all appear to be intended for listeners in the Bergen County area, and the operation has the appearance of a full-service FM station operating in and serving Bergen County. These practices are well demonstrated in the station promotional material and news clippings contained in the attached appendix regarding W276AQ's operation which were provided to the investigators by WVNJ(AM).

The investigators took particular note of these programming practices during their observations because it is believed that they are a clear example of unacceptable practices that the FCC discussed in the Report and Order in MM Docket No. 88-140, FCC 90-375. In paragraphs 36-41 of this R&O, the Commission discussed an

^{10/}We are aware that a letter was filed with the Commission advising of the change of the primary station. However, to our knowledge no formal application was filed with the FCC in accordance with § 74.1251(b)(6) of the rules. This rule requires formal application by FCC Form 349 any time the input or output frequency is changed. Changing the primary station to WXTM(FM) would require a change of the input frequency if direct reception is being employed.

example of an abuse of the 30-second limitation on FM translators which was alleged by KBUR-AM/KGRS-FM, Burlington, Iowa. The FCC stated in paragraph 41:

"As with the alleged abuses regarding ownership and financial support, we are also concerned by the purported abuses alleged by KBUR/KGRS. Therefore, we wish to emphasize that any Commission licensee which engages in a practice designed primarily to evade the 30-second limitation potentially subjects itself to the full panoply of Commission enforcement mechanisms. Indeed, because intentional evasion of Commission rules represents behavior which jeopardizes the Commission's ability to discharge its regulatory mandate, we view such behavior with particular disfavor."

Measurement Observations. Measurements and observations were performed by the investigators from the roof of the Hampshire House, 1590 Anderson Avenue, Whiteman Court, Fort Lee, New Jersey. The geographic coordinates of this location are North Latitude: 40° 51' 02" and West Longitude: 73° 58' 39". This test site is approximately 0.6 km southeast of the W276AQ transmitter location. The building roof used for the measurements is approximately the same height above ground and as free of obstructions as the W276AQ translator site and, based on experience, the investigators believe that the received signal levels on the two buildings are closely similar.

The following is a list of equipment used in conducting the measurements.

1. Hewlett-Packard, Spectrum Analyzer, Model No. 8591A
2. Scala CL-FM UCM, Yagi Receive Antenna (88-108 MHz) 50 ohms, SN 1194
3. Potomac Instruments, FIM-71, Field Strength Meter
4. Sony digital AM/FM receiver

000304

5. Radio Shack scanner
6. Carver, PSB-11 Synthesized Stereo Receiver
7. JPSNTR-1 DSP, noise/tone reducer (noise reduction unit)

Figure 3 contains a plot of the display for the HP spectrum analyzer centered on 99.7 MHz while connected to the Scala CL-FM antenna. The Scala antenna was carefully aligned towards the WXTM(FM) location when the plot was made.^{11/} The plot shows that the direct received signal level of WXTM(FM) taken from the antenna is nominally -78 dBm (28 μ V). Also shown in the plot of the spectrum analyzer display is WBAI, Channel 258B (99.5 MHz), New York, New York, with a signal level of -40 dBm (2.24 mV). The ratio between WXTM(FM)'s received signal to WBAI's is approximately -38 dB, whereas, +6 dB is recognized in §73.215 of the FCC rules as the 1st adjacent channel ratio required to be interference free. The high quality Carver stereo receiver was connected to the Scala antenna oriented toward WXTM(FM) and it was observed that the direct received signal of WXTM(FM) was unusable for retransmission on W276AQ due to low signal strength and severe 1st adjacent channel interference from WBAI.

The investigators also noted that W232AL, Pomona, New York, was in operation and monitoring of the translator's signal showed that it was transmitting programming identical to that of W276AQ.^{12/} Figure 4 is a plot of the HP spectrum analyzer with the Scala antenna oriented towards the W232AL transmitter site. It is shown that the received level taken from the antenna is -60 dBm (224 μ V). The signal of W232AL was monitored using the Carver receiver. The high aural quality and

^{11/}The manufacturer's specified gain for the antenna is 7 dB over a dipole with a 25 dB front to back ratio. This is considered typical of commercial FM yagi antennas.

^{12/}FCC records indicate that the primary station for W232AL is WHTZ, Channel 262, Newark, New Jersey. To our knowledge no formal application has been filed to change the input frequency of the translator.

absence of noise observed may indicate that the Pomona W232AL translator is not retransmitting the signal of WXTM(FM). Instead, it may be retransmitting W276AQ or it may be receiving a direct program feed.

Monitoring observations were made from the site on 95.1 MHz. It was observed that 95.1 MHz emissions carrying the programming for Juke Box Radio were present at the building roof measurement site. Figure 5 is a plot of the spectrum analyzer display showing the presence of the emissions, however, the indicated signal levels are not relative since an antenna designed for 95.1 MHz was not employed.^{13/}

^{13/}The Scala FM antenna was used.

FIGURE 2

W276AQ LICENSED AND PROPOSED
60 dBu SERVICE CONTOUR
F(50,50)

W276AQ LICENSED
(FCC FILE NO. BLFT - 900824TA)
AND PROPOSED
TRANSMITTER SITE

WBAB-FM LICENSED SITE
(FCC FILE NO. BLH - 850828LN)

WBAB-FM LICENSED
60 dBu PRIMARY SERVICE
CONTOUR F(50,50)

COVERAGE COMPARISON
W276AQ --- FORT LEE, NEW JERSEY
CH: 276 --- 0.035 kW (DA-MAX) --- 136 M HAAT
ASSOCIATED FULL-SERVICE FACILITY
WBAB-FM, BABYLON, NY
CH: 272 A --- 3.0 kW ERP --- 82 M HAAT
NOVEMBER, 1992

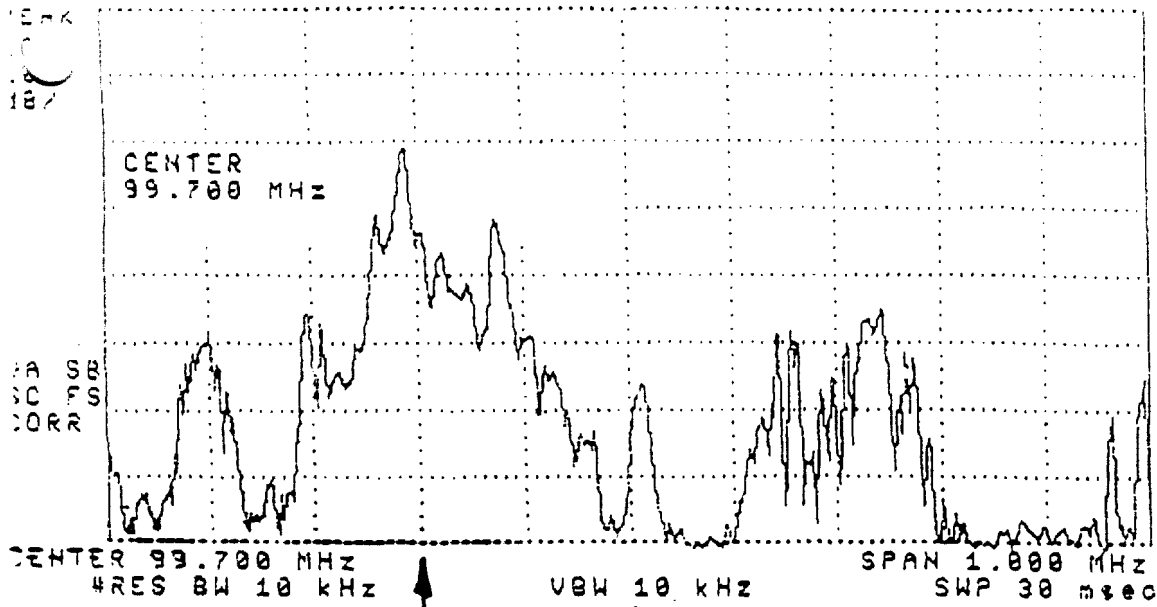
CARL T. JONES
CORPORATION

0 10 20 30 40 Miles
0 10 20 30 40 50 Kilometers

EXHIBIT 4

FIGURE 3

10:45:02 FEB 06, 1995
 15:04:13 FEB 02, 1995
 -20.0 dBm WATTEN 0 dB

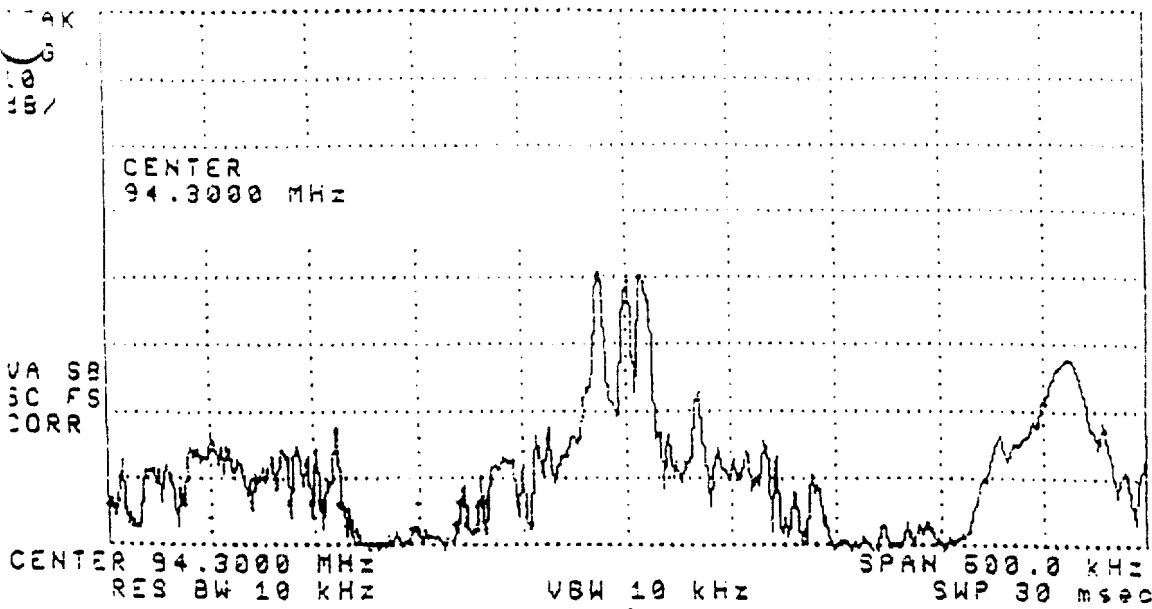


WBAI(FM) WXTM(FM)

000308

FIGURE 4

10:46:17 FEB 06, 1996
 15:09:52 FEB 02, 1998
 -20.0 dBm ATTEN 0 dB



CENTER
FREQ

START
FREQ

STOP
FREQ

CF STEP
AUTO MAN

FREQ
OFFSET

T

W232AL

000309

FIGURE 5

10149132 FEB 06, 1995
 15:23:57 FEB 02, 1995
 -20.0 dBm #ATTEN 0 dB

PEAK
 10
 dB/

VA SB
 SC FS
 CORR

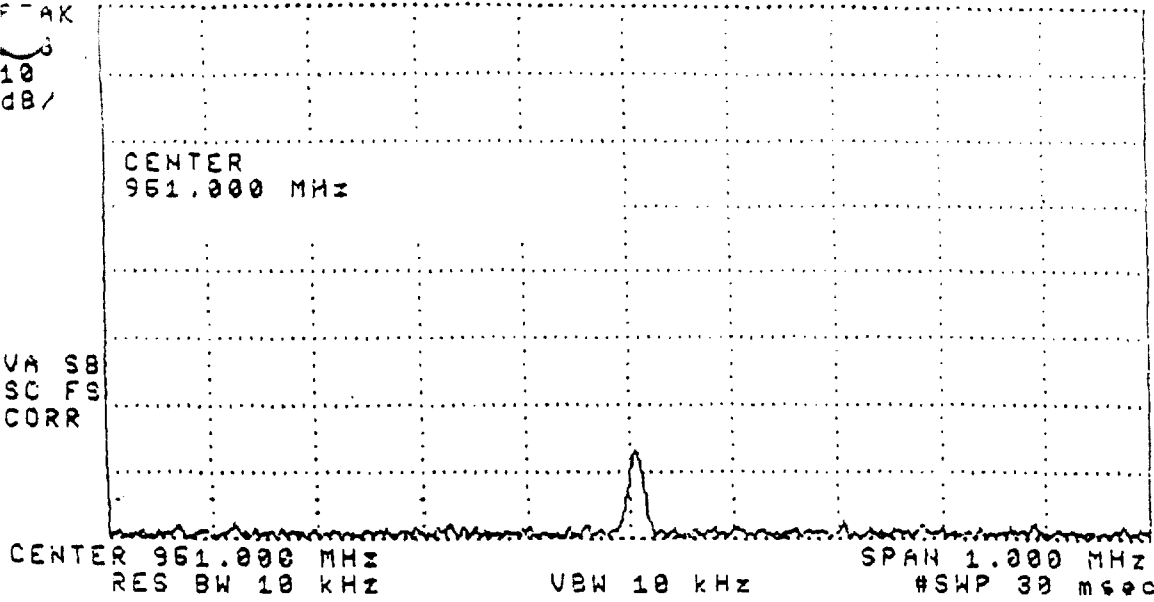
CENTER
 FREQ

START
 FREQ

STOP
 FREQ

CF STEP
 AUTO MAN

FREQ
 OFFSET



STL

000310